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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service

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MM Docket No. 87-268

TO: The Commission

**COMMENTS OF MIDWEST TELEVISION, INC.
ON THE BROADCASTERS' EX PARTE SUBMISSION
BASED ON NEW ALLOTMENTS/ASSIGNMENTS SOLUTIONS
TO IMPROVE THE COMMISSION'S DTV TABLE**

December 17, 1997

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SUMMARY

Station KFMB-TV, NTSC Channel 8, San Diego, California, faces the devastating loss of its existing analog service to up to 25% of the population in its service area, based on proper interpretation of the Commission's own methodology. This loss would result as soon as KABC-TV activates its Channel 8 DTV assignment in Los Angeles -- 37.3% short-spaced to KFMB-TV under the Commission's own separation requirements -- which KABC-TV must do in only 10½ months. KABC-TV also opposed the Channel 8 DTV assignment specified for it in the Commission's DTV Table issued in April. Fortunately, however, industry-proposed systemic improvements for the California area, already on file with the Commission and proposed in concept last June, would:

- cure this problem;
- improve by 5% the replication of six stations in California and reduce the replication of only one station by more than 5%, and that station (KABC-TV) supports the improvements;
- free up for public safety use two more channels in Channels 60-69 in the Los Angeles area; and
- not require changes outside of the California area, though Midwest supports those proposed changes as well, in order to achieve a quicker and much more efficient DTV roll-out.

KFMB-TV and its licensee company, Midwest Television, Inc., also support the industry Improvements in other parts of the country because:

- they would eliminate interference to 8 million Americans;
- they would increase the replication of 112 stations by more than 5% and result in a greater than 5% reduction in replication for only 10 stations;

- they would minimize administrative and judicial challenges that would create uncertainty and delay in the implementation process;
- consistent with the FCC's allocation proposal in the Channel 60-69 proceeding and the Congressional mandate in the 1997 Budget Act, the Improvements would only minimally affect spectrum for meaningful public safety needs; and
- they would alleviate severe interference problems in rural communities in northern Illinois that the current DTV Table causes to Midwest's Channel 3 station in Champaign, Illinois.

The sum of the matter is that the existing service enjoyed by over 700,000 people in KFMB-TV's coverage area could be destroyed less than a year from now by a DTV service that at the outset no one will receive. This loss is avoidable by a modest series of DTV assignment shifts which will not hurt any station significantly and will improve public safety's access to spectrum in southern California. These changes can be promptly accomplished now, but not at a later time. It is inconceivable that the public interest touchstone could lead to any conclusion other than that the Commission should immediately make at least these adjustments in its DTV Table. Failure to do so would be arbitrary and capricious.

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In our timely filed petition for reconsideration of the *Sixth Report and Order* in this proceeding,^{1/} Midwest Television, Inc. ("Midwest") explained that the short-spaced co-channel assignment of DTV Channel 8 to KABC-TV in Los Angeles under the Commission's DTV Table threatens to wipe out the service our station KFMB-TV (NTSC Channel 8) currently provides to viewers in the San Diego market.^{2/} The facilities of KFMB-TV and KABC-TV are only 171.7 kilometers (106.6 miles) apart -- 102 kilometers (63.3 miles) short-spaced^{3/} under the Commission's standards for co-channel analog and DTV stations. This short-spacing threatens to destroy service to *up*

^{1/} Petition for Partial Reconsideration of Midwest Television, Inc., MM Docket No. 87-268 (June 13, 1997) (the "Petition").

^{2/} *Id.* at 2-5.

^{3/} By "short-spaced" we mean that the stations are closer together than the Commission's own DTV-to-NTSC co-channel standards permit.

to 25% of KFMB-TV's viewership^{4/} as soon as KABC-TV commences digital service. Because KABC-TV must begin its digital transmissions by November 1998, KFMB-TV and its viewers face imminent harm if the current DTV Table is not amended to resolve this situation. San Diego is a highly competitive market, where a very small shift in ratings and viewing radically affects the purchase of advertising. The threatened loss of even a small percentage of viewers would mean a massive loss of advertising for KFMB-TV. KFMB-TV's survival and ability to transition to DTV service would be at risk.

On November 20, 1997, the Association for Maximum Service Television, Inc. ("MSTV"), the National Association of Broadcasters ("NAB"), and other broadcasters filed an *ex parte* submission (the "Submission") which focused on two systemic problems with the Commission's DTV Table of allotments/assignments (the "DTV Table")^{5/} and submitted a set of discrete revisions to the DTV Table (the "Improvements") which demonstrate a practical means for addressing these problems. If adopted, the Improvements would resolve the short-spaced, co-channel DTV assignment which threatens *in less than one year* to devastate the service our station KFMB-TV provides in the San Diego market. In addition, the Improvements would strengthen the DTV Table as a whole, facilitating the smooth, effective, and "viewer-friendly" transition to digital television service. Midwest hereby strongly urges the Commission to

^{4/} In our *ex parte* letters of December 3 and December 5, 1997, we mistakenly reported a 40% loss of the viewing population. In reviewing the present population of the San Diego market, we have determined that the 700,000 people with service in jeopardy constitute 25% of the population.

^{5/} See Appendix B to the Sixth Report and Order, MM Docket No. 87-268 (rel. April 21, 1997) ("Sixth R&O").

adopt the revisions to the DTV Table embodied in the Improvements generally, and especially with respect to the California coastal region.

Severe spectrum congestion in southern California precluded us from suggesting an alternative channel assignment for KABC-TV in our petition. In southern California, the number of channels available for DTV assignments is roughly the same as the number of stations requiring DTV assignments. This lack of excess channels means that a channel change for KABC-TV necessarily requires multiple channel changes in the region. Accordingly, we supported the efforts of MSTV, NAB and others in the industry to develop a regional solution that would resolve the most serious cases of interference in southern California and other regions, minimize changes to the DTV Table and avoid significant new problems. The Improvements provide such a solution.

I. THE IMPROVEMENTS RESOLVE SEVERE INTERFERENCE PROBLEMS IN THE CONGESTED CALIFORNIA COASTAL REGION AND ELIMINATE A SHORT-SPACED CO-CHANNEL DTV ASSIGNMENT WHICH WOULD DEVASTATE THE PUBLIC'S EXISTING ANALOG SERVICE FROM KFMB-TV.

A. The Commission's Current DTV Table Would Result In Severe Interference To KFMB-TV's Existing Analog Service When KABC-TV Begins Digital Transmissions Next Year.

After the DTV Table was released in April, both Midwest and ABC, Inc. (licensee of KABC-TV) filed timely petitions for reconsideration alerting the Commission to the serious co-channel interference problems stemming from KABC-TV's

Channel 8 DTV assignment, and requesting an alternative DTV channel for KABC-TV.^{6/} Since that time, both broadcasters have supported efforts to develop a regional solution for severe interference problems in the highly-congested California coastal region, and both support the Improvements.^{7/} The Improvements would clear the path for KABC-TV to commence digital operations by its November 1998 deadline, without sacrificing the existing analog service of up to a quarter of KFMB-TV's viewers and without locking in heavy interference to KABC-TV's prospective digital viewers.

In assigning DTV Channel 8 to KABC-TV, the Commission violated its own spacing parameters for analog and DTV stations operating on the same channel.^{8/} As noted in our petition, the facilities of the two stations are separated by only 171.7 kilometers (106.6 miles), *102 kilometers (63.3 miles) short* of the 273.6 kilometer (170 mile) separation requirement for new co-channel operations specified in Section 73.623(d) of the Commission's rules.^{9/} This 37.3% short-spacing far exceeds a reasonable exception to the Commission's standards,^{10/} and should not go uncorrected.

As the Commission's own standards demonstrate, KABC-TV and KFMB-TV simply are too close to share a channel. KABC-TV and other Los Angeles stations

^{6/} Petition at 2-5; Petition for Reconsideration of the Sixth Report and Order ("Sixth R&O") filed by ABC, Inc., MM Docket No. 87-268 (June 13, 1997), at 2.

^{7/} ABC, Inc. is a signatory to the Submission.

^{8/} See Sixth R&O, Appendix E at E-36.

^{9/} See *id.*; Petition at 2.

^{10/} See, e.g., *Orange Park Florida TV Inc. v. FCC*, 62 Rad. Reg. 2d. (P&F) 469 (1987) (upholding the Commission's decision to disallow a short-spacing of only 5%).

send strong signals from high on Mount Wilson (over 3200 feet above average terrain) down into San Diego.^{11/} Indeed, viewers in San Diego are able to receive clear signals from Los Angeles stations using only indoor antennas. If KABC-TV begins transmitting Channel 8 digital signals next fall, these signals will blanket San Diego, destroying service to hundreds of thousands of KFMB-TV's viewers and threatening the continued viability of the San Diego station. It is important to appreciate that interference means, according to the Commission's own standards, that service is destroyed -- not merely degraded or impaired. Additional portions of KFMB-TV's coverage area would receive deteriorated service, but up to 25% would lose service altogether.

This simple truth and common-sense fact was illustrated by the engineering statement attached to our Petition.^{12/} Use of the Longley-Rice propagation model in accordance with the Commission's own methodology shows that harmful interference from KABC-TV would destroy service to approximately 116,482 viewers within KFMB-TV's Grade B contour.^{13/} This figure dramatically underestimates the service loss to KFMB-TV's viewers, however, because it fails to account for almost

^{11/} Moreover, the signals of Los Angeles stations are enhanced due to the "ducting" phenomenon, whereby the television signal is enhanced by passing over the water between Los Angeles and San Diego, making it stronger and more interfering. The Commission has long recognized the ducting phenomenon as a factor to consider in assigning television channels in southern California and in the 1980's conducted a propagation measurement program to determine the severity of the problem.

^{12/} Petition at 3-4 and Appendix 1.

^{13/} As noted in our Petition, KABC-TV's DTV service also would be subject to interference (*i.e.*, destruction) from KFMB-TV's co-channel analog operations. *Id.* at 4.

600,000 additional viewers for whom the Commission's Longley-Rice methodology could not verify service.^{14/}

These 600,000 viewers reside in "error locations." These error locations are areas within KFMB-TV's Grade B contour identified by the Commission's own methodology as locations where *service could not be assured*.^{15/} In assigning DTV Channel 8 to KABC-TV and specifying what interference would result therefrom, the Commission *assumed* that the error locations were free from interference. While this assumption may be justified in most instances, it is not valid in this case.^{16/}

The Commission's decision to disregard or assume away interference to KFMB-TV's viewers in the error locations is wholly unreasonable given the 37% short-spacing between KABC-TV and KFMB-TV, the mountainous terrain surrounding San Diego, and the clear signals typically received by San Diego viewers tuning in Los

^{14/} *Id.*

^{15/} An "error location" is a location within a station's coverage area where service cannot be verified using the Commission's propagation software. In error locations, the Commission's software returns an "error marker 3" code, rather than a code indicating that service either is received or is not received in the particular location. If the Commission's software returns an "error marker 3" code for a particular location, this means that for this location "internal calculations show parameters out of range." An explanatory note for the methodology states, in pertinent part: "The error marker ... is meant to serve as a warning to the user that one or more of the parameters have *values that make the results dubious or unusable*." See A Guide to the Use of the ITS Irregular Terrain Model in the Area Prediction Mode, published by the National Telecommunications and Information Administration, U.S. Department of Commerce, p. 70 (emphasis added).

^{16/} For facilities located in areas of flat terrain, there generally are few error locations, so disregarding them does not materially skew the interference analysis. In areas of mountainous terrain such as San Diego, error locations can comprise a large part of a given station's service area.

Angeles stations. The Commission's own methodology shows that these error locations encompass approximately 20% of KFMB-TV's Grade B service area, although this information is not disclosed in the *Sixth Report and Order*. Together with the interference verified by the Longley-Rice methodology, KABC-TV's digital signal would jeopardize the service of *some 700,000 persons -- 25% of KFMB-TV's viewers*.

Such interference would be devastating to KFMB-TV and to the viewers it serves. Historically, the Commission and the courts have recognized even relatively small service losses to be highly significant.^{17/} The severe service loss threatened here demands that the Commission take swift action to remedy the situation. The Improvements provide the means to do so.

B. A Systemic Solution Is The Only Way To Preserve Service To KFMB-TV's Viewers, Resolve Other Serious Interference And Replication Problems In Southern California, And Avoid Causing A Host Of New Problems In The Region.

In our petition, we noted that "[i]n light of the ripple effect resulting from proposed changes in channel assignments and the congested nature of the California coastal region, Midwest believes that a regional solution is necessary in order the resolve

^{17/} See, e.g., *Central Coast Television*, 14 F.C.C.2d 985 (1968) (denying application to relocate a television transmitter which would cause 4,899 viewers to lose service, even though 297,129 viewers would have gained service from the move); *WLCY-TV*, 16 F.C.C.2d 506 (1969) (denying application to relocate transmitter because 1,762 viewers would lose service, even though 415,813 people would gain service; also finding mere signal degradation inconsistent with the public interest); *Hall v. FCC*, 237 F.2d 567, 572 (D.C. Cir. 1956) (loss of service is *prima facie* not in the public interest); *New Jersey Public Broadcasting Authority*, 74 F.C.C.2d 602, 605 (1979) (same); *KTVO, Inc.*, 57 Rad. Reg. 2d (P & F) 648, 650 (1984) (removal of service from an area held to have "grave consequences"); *Sarkes Tarzian, Inc.*, 6 FCC Rcd. 2465, 2465 (1991) (loss of service to an area may require "extraordinary justification").

its interference problems and the problems of other stations in the California coastal area."^{18/} While we sought and would have preferred a simple solution to our problem (*e.g.*, simply substituting a different channel for KABC-TV's Channel 8 DTV assignment), we recognized that a single channel change to address our short-spaced co-channel situation would result in increased interference to other stations in the market, unless their assignments also were adjusted. The shortage of spectrum in southern California means that a single channel change in Los Angeles in turn would compel a corresponding series of channel changes throughout the region to account for the "daisy-chain" effect. If such corresponding changes were not made, new allotment/assignment situations would be created which for other stations in the region would cause increased interference or reduced replication.

For this reason, our petition and others endorsed a systemic approach for resolving interference and replication problems in southern California. We joined MSTV, NAB and numerous other broadcasters in filing a separate petition for reconsideration urging the Commission to adopt a regional solution for problems in the California coastal region and two other severely spectrum-congested regions in the country.^{19/} The Improvements demonstrate that a regional approach is feasible and would substantially strengthen the DTV Table. The regional solution developed for the

^{18/} Petition at 5.

^{19/} *Id.*; Petition for Clarification and Partial Reconsideration of the Fifth and Sixth Reports and Orders Submitted by the Association for Maximum Service Television, Inc., the Broadcasters Caucus and Other Broadcasters, MM Docket No. 87-268 (June 13, 1997) (the "Broadcasters Petition").

California coastal region would benefit numerous stations and their viewers, and should be adopted even if the Commission rejects other revisions proposed in the Improvements.

First, the Improvements would resolve the short-spaced co-channel situation with KABC-TV and preserve service to KFMB-TV's viewers. The Improvements in the California coastal region would accomplish this result without materially harming any other station in southern California or elsewhere.^{20/} In lieu of DTV Channel 8, the Improvements assign DTV Channel 42 to KABC-TV. This alternative DTV assignment would eliminate new interference to KFMB-TV's service area, and avoid the projected interference from KFMB-TV's Channel 8 analog signal to KABC-TV's digital Channel 8 service.

Second, the Improvements would, in aggregate, reduce interference to existing analog and new DTV service in the California coastal region by 25%.^{21/} Several California stations severely harmed under the Commission's DTV Table would receive striking improvements in their ability to replicate their current analog service areas. The Commission adopted the replication principle as a major public policy goal

^{20/} In determining the impact of the Improvements on other stations, we have compared (i) the interference and replication figures provided in Exhibit 1A of the Submission (the Improvements) with (ii) interference and replication figures provided in Exhibit 1B of the Submission (FCC DTV Table with Corrected Coverage and Interference Figures). This is an apples-to-apples comparison. Comparison of Exhibit 1A with the figures in Appendix B of the Sixth Report and Order would be an apples-to-oranges comparison, because Appendix B fails to account for the newly discovered DTV-to-DTV adjacent-channel interference problem and includes other calculation errors.

^{21/} See Submission at 8.

of the DTV Table because it would minimize viewer disenfranchisement in the transition to digital service. Thus, the public accustomed to viewing their local news from a particular station should not be deprived of that service when the station transitions to digital operations. The Improvements serve this public policy goal by, for example, improving the replication figures of three San Francisco stations by up to 36%. The Improvements would:

- increase the replication of noncommercial station KMTP-TV from 63.5% to 99.6% (a 36.1% improvement);
- increase the replication of KTSF(TV) from 65.1% to 99.4% (a 34.3% improvement); and
- increase the replication of KDTV(TV) from 70.8% to 94.9% (a 24.1% improvement).

Indeed, the only California station with a significant loss in calculated replication is KABC-TV in Los Angeles, a supporter of the Improvements.^{22/}

Third, the Improvements would eliminate DTV assignments on Channels 68 and 69 in Los Angeles, freeing up these two channels for public safety use.^{23/} The pleadings filed in this proceeding by members of the public safety community demonstrate an especially acute concern regarding the need for public safety spectrum in California, particularly in Los Angeles. Despite extreme spectrum congestion, the

^{22/} The permittee of new Channel 38 in Santa Barbara has brought to MSTV's attention that it was omitted from the Commission's DTV Table and hence was similarly overlooked in the industry Improvements. MSTV has advised us that the permittee's present analog channel can be protected by the Improvements and given a paired DTV assignment (Channel 48) without disrupting other proposed assignments or eroding public safety spectrum.

^{23/} Submission at 10 n.20.

Improvements demonstrate that a systematic approach can strengthen the DTV Table for broadcasters and their viewers while accommodating public safety needs in the region.

II. THE IMPROVEMENTS STRENGTHEN THE DTV TABLE AND SET THE STAGE FOR A SMOOTH, EFFECTIVE AND VIEWER-FRIENDLY TRANSITION.

A. The Improvements Reflect Industry Consensus To Focus On Systemic Problems With The DTV Table Requiring Immediate Solutions.

The Commission faced a tremendous challenge in developing new DTV assignments for more than 1600 full-power broadcasters and laid a solid foundation with its DTV Table. Given the magnitude of the task and the limited spectrum available, it is not surprising that some fine tuning would be required. Although no solution will be perfect or embraced by all, the Improvements provide a refinement of the DTV Table which would ameliorate severe service losses in the three most spectrum congested regions of the country and resolve newly-discovered interference problems between close-spaced adjacent-channel DTV stations.

The Commission's DTV Table was met with widespread dissatisfaction. More than 230 petitions for reconsideration were filed with respect to the *Fifth and Sixth Reports and Orders* in this proceeding. Despite these sentiments, the industry reached consensus to work within the framework of the Commission's DTV Table to develop solutions, rather than scrapping the DTV Table and starting anew.^{24/} The Improvements reflect this industry consensus by tackling only discrete systemic problems

^{24/} See Broadcasters Petition at 1-5.

with the DTV Table -- those problems which could not be resolved on a case-by-case basis once the DTV Table is set.^{25/}

The Improvements address two basic problems. First, they ameliorate severe interference and replication problems in the most spectrum-congested regions of the country. These three regions (the "Acute Problem Areas") are the Northeast corridor, the Great Lakes region, and the California coastal region. Because so many stations share the television broadcasting spectrum in these regions, single channel changes or simple channel swaps cannot be made without causing new interference situations with other stations in the same or nearby markets. Therefore, the only way to resolve service problems in these regions is to make the several interrelated channel changes necessary to ameliorate the most severe hardship cases and produce a net decrease in interference.^{26/}

Second, the Improvements eliminate the serious cases of interference resulting from the late-discovered DTV-to-DTV adjacent-channel interference problem. In June and July 1997, the Advanced Television Technology Center, Inc. ("ATTC") conducted tests to determine the consequences of DTV out-of-band emissions using the

^{25/} The Broadcasters Petition endorsed and supported a process for facilitating case-by-case adjustments outside the three Acute Problem Areas.

^{26/} We note that it would be possible to adopt the Improvements on a regional basis (e.g., adopt all of the changes for the California coastal region, but not for the Northeast region or Great Lakes region), because these regions are geographically distinct. Because of the daisy-chain effect, however, adopting only some changes within a particular region almost certainly would result in new cases of interference within the region. Of course, in the Acute Problem Areas, changes addressing DTV-to-DTV adjacent channel interference cannot be segregated from changes addressing other interference problems.

RF mask specified by the Commission.^{27/} This testing showed that interference between adjacent-channel DTV stations will be much greater than the Commission or the industry had anticipated.^{28/} As a result, many of the adjacent-channel DTV assignments in the DTV Table across the country involve stations that are located too close to each other geographically. Indeed, the DTV Table contains more than 130 pairs of adjacent-channel DTV assignments in the same or neighboring communities, resulting in severe interference to one of both of the stations in each pair.^{29/} The Improvements eliminate these problem DTV adjacencies.^{30/}

The Improvements provide the Commission with the opportunity to resolve these systemic problems now, while it is still possible to do so. Once stations go

^{27/} See Comments on the Broadcasters' Ex Parte Submission Based on New Technical Discoveries to Improve the DTV Table of Allotments/Assignments Submitted by the Advanced Television Technology Center, Inc., MM Docket No. 87-268 (Dec. 16, 1997) at 6. The Commission routinely has relied on ATTC studies in planning for the transition to DTV.

^{28/} *Id.* at 7. The ATTC released a report explaining its findings regarding close-spaced adjacent-channel DTV stations in July, and filed the report with the Commission immediately thereafter. The Commission also was alerted to the ATTC's findings in the Comment on and Opposition to Petitions for Reconsideration of the Fifth and Sixth Reports and Orders Submitted by the Association for Maximum Service Television, Inc. and the Broadcasters Caucus, MM Docket No. 87-268 (July 18, 1997). In comments filed yesterday, the ATTC confirmed the severity of the DTV-to-DTV adjacent-channel interference problems, and called for the Commission to reassign on reconsideration adjacent DTV channels located between 8 and 70 kilometers apart. See *id.* at 7-8. The Improvements accomplish such reassignments.

^{29/} *Id.* at 6.

^{30/} It may be asked whether the Acute Problem Area interference can be cured separately from the DTV-to-DTV adjacent-channel interference problems. In theory, it can be. But in the Acute Problem Areas, the two types of problems are so interrelated that the sensible approach is to design one set of Improvements to cure both problems together, and that is what has been done.

on the air in the Acute Problem Areas, channel shifts will not be feasible and other remedies, such as filters, will be expensive and unreliable palliatives that cannot solve the problem. Requiring a station to change its DTV channel after it begins DTV operations would impose a great financial burden.^{31/} Thus, failure to address these systemic problems now would harm the public, broadcasters, and the Commission.

If the Improvements are not adopted, stations such as KFMB-TV, who stand to lose large portions of their viewership during the transition, would lose the financial support and viewer goodwill critical for surviving the transition and emerging as a viable digital television station. Viewers would lose their existing service or be deprived of new DTV service unnecessarily. And the Commission would be faced with meritorious challenges to the DTV Table, slower DTV implementation, severe service losses, and disputes among broadcasters with no equitable solutions. The public would be the loser.

By changing a limited number of DTV assignments as suggested in the Improvements, the Commission will reduce uncertainty and strengthen the DTV Table at the outset. Where alternative channel assignments can eliminate sources of potentially severe interference, the Commission should not rely on untried technical strategies of at best limited efficacy (*e.g.*, filters) to address such problems after the fact. Such strategies would require the purchase and maintenance of expensive equipment at the interfering station. Moreover, it is wishful thinking to assume that these strategies

^{31/} For example, if KABC-TV were required to move from Channel 8 to Channel 42 after it begins DTV service, it would need to purchase an entirely new transmission plant, including a new transmitter, new transmission lines, and a new antenna.

would be total solutions; at best, they would produce a marginal reduction in interference or improvement in service.^{32/} If these systemic problems are not resolved now, on reconsideration, the DTV transition will be hampered by interference and replication problems indefinitely into the future which will create technical and financial hurdles for broadcasters and diminish the attractiveness of digital service to the public.

B. The Improvements Greatly Reduce Interference And Increase Replication Nationwide.

As noted above, the Improvements were developed based on industry consensus to proceed within the framework of the Commission's DTV Table, addressing only systemic problems within limited geographic areas which cannot be corrected at a later stage on a case-by-case basis. Drafts of the Improvements were circulated through the industry several times, and the comments of broadcasters taken into account in developing the final product.^{33/} The results of these efforts are impressive.

By making some 357 changes to the DTV Table, the Improvements would substantially benefit over 100 television stations, including KFMB-TV, and would prevent *eight million viewers* from losing existing or future television service.^{34/} As compared with the DTV Table, the Improvements would reduce interference to existing

^{32/} In the case of close-spaced DTV adjacent channels, for example, the interfered-with station would be required to rely on use of an expensive and only partially effective filter by the interfering station, which presumably would have little incentive to invest in such equipment.

^{33/} Submission at 8.

^{34/} *Id.* The 8 million person figure represents the aggregate number of potential viewers per channel.

analog and future DTV service by 33% in the Northeast corridor, 32% in the Great Lakes region, and 25% in the California coastal region.^{35/}

The benefits of the Improvements far outweigh any disadvantages. In the continental United States, the Improvements would increase the replication of 112 stations by more than 5%, while only 10 stations would have their replication reduced by more than 5%.^{36/} Of these stations, 58 would receive an increase in replication of more than 10%, while only four stations (one of which is KABC-TV, a supporter of the Improvements) would have their replication reduced by this much. Finally, 20 stations which would suffer severe service losses under the Commission's DTV Table would have their replication improved by more than 25%, while *no* station would experience this great a reduction in replication.

The Improvements also eliminate serious co-channel interference problems facing our station WCIA-TV, analog Channel 3 in Champaign, Illinois, which also was discussed in our petition.^{37/} The Improvements resolve this situation by changing the DTV assignment of WBBM-TV in Chicago from Channel 3 to Channel 54, a change supported by CBS, Inc., the licensee of WBBM-TV and a signatory to the Submission. In addition, the Improvements increase the replication of WGBO-TV in Joillet, Illinois from 80.3% to 100.0% -- a 19.7% improvement -- and significantly decrease new

^{35/} *Id.*

^{36/} As noted above, these figures were derived by comparing Exhibits 1A and 1B of the Submission. An increase in replication of 5% means, for example, that the station's replication figure increased from 80% to 85%.

^{37/} Petition at 7.

interference to three Chicago stations.^{38/} At the same time, the Improvements do not significantly (*i.e.*, more than 5%) reduce the replication of *any* Illinois DTV stations and do not significantly (*i.e.*, more than 3% in population or area) increase interference to *any* Illinois analog stations.

Undoubtedly, some will argue that the downsides of adopting the Improvements outweigh the benefits. These arguments likely will be based on political concerns, misconceptions regarding the severity of interference and replication problems under the current DTV Table, or convenience, rather than on an objective evaluation of the Improvements.

For example, some parties have failed to support the Improvements for fear that Congress or the Commission would misperceive their support as an effort to delay the DTV transition. Others have assumed incorrectly that any problems with the DTV Table can be resolved after the Table is finalized. Still others are concerned about being given out-of-core DTV assignments -- a problem that the Commission can and should solve on reconsideration by requiring, as it has in other instances of spectrum relocation, that the expenses of the DTV stations required to move into the core would be reimbursed from the revenue raised by auctioning out-of-core DTV channels after the transition. Other broadcasters simply may prefer their current channel assignments for reasons of convenience, such as preferring a lower channel than is provided under the Improvements.

^{38/} These stations are WGN-TV (NTSC Channel 9, Chicago), WMAQ-TV (NTSC Channel 5, Chicago) and WSNS-TV (NTSC Channel 44, Chicago).

Such arguments discount the many hardships and service losses to the public that would be remedied by the Improvements. As shown above, the Improvements strengthen the DTV Table and provide a solid base for the transition. The systemic problems ameliorated by the Improvements are problems that cannot be solved once the transition is underway. Problems that *could* be resolved during or after the transition on a case-by-case basis were not included in the list of problems addressed by the Improvements. The Commission should adopt the Improvements based on these objective facts.

C. Adopting The Improvements Will Not Delay The Roll-Out Of DTV, But Will Remove Obstacles And Smooth The Transition.

The Commission has asked whether adopting the Improvements could delay the DTV transition. We believe that it will not. In the short run, the Improvements (or some other version of them crafted by the Commission's staff) can be adopted at the Commission's scheduled January 29, 1998 meeting. Thereafter, the Improvements will speed the roll-out of DTV because they will have resolved so many problems inherent in the Commission's current DTV Table.

On the other hand, if the Commission fails to address the serious flaws in the DTV Table identified in the Submission, the transition will be hobbled from the start. If the Commission does not resolve these systemic problems with the DTV Table, it will set the stage for continued conflict as these problems play out during the transition, after the opportunity for a relatively painless systemic solution has passed. We are anxious to proceed with the DTV transition, and believe the Improvements will

assist KFMB-TV and other stations to survive the transition and move into the digital age in a quick and effective manner.


The Commission has before it more than 230 petitions for reconsideration. The Improvements provide a solution for many of the serious problems raised in these reconsideration pleadings -- problems the Commission will have to address in one way or another. The Improvements resolve the most egregious situations while minimizing disruption to other stations. If the Commission adopted fewer changes to the DTV Table, these changes could result in a number of new problems, prompting station owners and viewers to challenge the Commission's decision and slow the implementation process. The Improvements minimize the incentives for such challenges, and would weaken the ammunition for such attacks.

* * *

The Improvements prevent our station KFMB-TV from suffering a devastating loss of service -- a service loss that the station could not survive. In addition to resolving our situation, the Improvements would serve the public interest by benefitting stations and viewers nationwide. We urge the Commission to adopt the

Improvements. At the very least, the Commission should adopt the revisions proposed for the California coastal region.

Respectfully submitted,



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